IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

And
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 21135 of 2004

Between:

M/s. Vikas Mahila Residential College Ring Road, Guntur Guntur District rep by Managing Partner K. Vivekananda S/o Chenchurama Naidu

..... PETITIONER

AND

1 The Assistant Commissioner of Commercial Taxes (INT)(LTU), Guntur Guntur District
2 The Appellate Deputy Commissioner of Commercial Taxes, Guntur Guntur District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction particularly in the nature of Writ of Mandamus declaring that the exemption from sales tax on transactions of supply/sale of food and drinks by the petitioners educational institute to the students residing in the hostels in G.O.Ms. No. 1036 dt 20-10-1989 issued under section-9 (1) of the APGST ACt, 1957 is general in nature capable of covering the purchase

transactions of raw food materials like paddy and milk in terms of the judicial decisions in 24 APSTJ 1 (AP), 90 STC 537 (Karnataka) as affirmed by the Honourable Supreme Court in C.A. Nos. 1784-89 of 1994 dated 28-07-1998 and also by holding that the expression "food" as used in G.O.Ms. No. 1036 Rev, (CT-II) Dept. dt 20-10-1989 being comprehensive, including any or all within it raw food materials also such as paddy and as such sale/supply of food being exempt from tax is capable of covering purchase of raw food materials also in terms of the judgments of Allahabad High Court in 32STC 14, also of the Honourable Supreme Court reported in AIR 1983 SC 1015 and AIR 1981 SC 1485 or in the alternate to hold that the petitioner educational institutes activity of imparting education to the students in the residential college and coaching centers beyond the purview of the expressions business and dealer as envisaged in Sections-2(bbb) and Section-2(d) of the APGST Act and to set aside the orders of the respondents dated 11-09-2004 and 25-10-2004 relating to assessment year 2000-2001 to 2004-2005 (Upto July, 2004).

Counsel for the Petitioner: MR.M.V.J.K.KUMAR

Counsel for the Respondent Nos.1 & 2: SPL SC FOR COMMERCIAL TAXES

The Court made the following:

(Oral Order: Per: The Hon'ble Mr. Justice Bilal Nazki)

Learned counsel for the petitioner submits that the petitioner seeks permission to withdraw the writ petition with liberty to approach the appropriate forum. Recording

the submission, the writ petition is dismissed as ‘withdrawn’ granting liberty to seek alternative remedy available under law. No costs.

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BILAL NAZKI, J

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S. ANANDA REDDY, J

Dt. 18-11-2004

Pvks/*

To

1. The Assistant Commissioner of Commercial Taxes (INT)(LTU), Guntur, Guntur District
2. The Appellate Deputy Commissioner of Commercial Taxes, Guntur, Guntur District

3. 2CCs to Special SC for Commercial Taxes, A.P. High Court Buildings, Hyderabad (OUT)

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